

AMENDED IN SENATE JULY 1, 2015
AMENDED IN ASSEMBLY MAY 5, 2015
AMENDED IN ASSEMBLY MARCH 19, 2015
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 449

Introduced by Assembly Member Irwin
(Principal coauthor: Assembly Member Wilk)
(Principal coauthor: Senator *Hertzberg* and Pavley)
(Coauthors: Assembly Members Baker, Brown, Chávez,
Cristina Garcia, Jones, Maienschein, Steinorth, and Waldron)
(Coauthors: Senators Allen, Anderson, and Vidak)

February 23, 2015

An act to add ~~and repeal~~ Sections 17140.4 and 23711.4 ~~of to~~ the Revenue and Taxation Code, and to add ~~and repeal~~ Chapter 15 (commencing with Section 4875) ~~of to~~ Division 4.5 of the Welfare and Institutions Code, relating to ~~taxation~~: *taxation, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 449, as amended, Irwin. Income taxation: savings plans: Qualified ABLE Program.

The Personal Income Tax Law and the Corporation Tax Law, in specified conformity with federal income tax laws regarding qualified tuition programs, provide that distributions from a qualified tuition program are generally not included in the income of the donor or the beneficiary, as specified.

Existing federal law, the Stephen Beck Jr., Achieving a Better Life Experience Act of 2014 (ABLE Act), for taxable years beginning on

or after January 1, 2015, encourages and assists individuals and families to save private funds for the purpose of supporting persons with disabilities to maintain their health, independence, and quality of life by excluding from gross income distributions used for qualified disability expenses by a beneficiary of a Qualified ABLE Program established and maintained by a state, as specified.

This bill would, for taxable years beginning on or after January 1, 2016, ~~and before January 1, 2021~~, conform to these federal income tax law provisions relating to the ABLE Act under the Personal Income Tax Law and the Corporation Tax Law, as provided. The bill would also establish in state government a Qualified ABLE Program and the ~~Qualified~~ ABLE Fund for purposes of implementing the federal ABLE Act. *The bill would create the ABLE Act Board. The bill would authorize the Able Fund to accept moneys from ABLE Accounts, to be segregated into the program account and the administrative account. The bill would continuously appropriate funds in the accounts to the board for specified purposes, thereby making an appropriation.* The bill would require the Treasurer to administer the program in compliance with the requirements of the federal ABLE Act. ~~This bill would repeal the Qualified ABLE Program as of January 1, 2022.~~

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature to further the
2 purposes of the federal Stephen Beck Jr., Achieving a Better Life
3 Experience Act to ensure that people with disabilities may save
4 for the future to achieve greater independence.

5 SEC. 2. This act shall be known, and may be cited, as the
6 California Achieving a Better Life Experience Act.

7 SEC. 3. Section 17140.4 is added to the Revenue and Taxation
8 Code, to read:

9 17140.4. For taxable years beginning on or after January 1,
10 2016, ~~and before January 1, 2021~~, Section 529A of the Internal
11 Revenue Code, relating to qualified ABLE programs, added by
12 Section 102 of Division B of Public Law 113-295, shall apply,
13 except as otherwise provided.

14 (a) Section 529A of the Internal Revenue Code is modified as
15 follows:

1 (1) By substituting the phrase “under this part and Part 11
2 (commencing with Section 23001)” in lieu of the phrase “under
3 this subtitle.”

4 (2) By substituting “Article 2 (commencing with Section
5 23731)” in lieu of “Section 511.”

6 (b) A copy of the report required to be filed with the Secretary
7 of the Treasury under Section 529A(d) of the Internal Revenue
8 Code, relating to reports, shall be filed with the Franchise Tax
9 Board at the same time and in the same manner as specified in that
10 section.

11 ~~(e) This section shall remain in effect only until December 1,~~
12 ~~2021, and as of that date is repealed.~~

13 SEC. 4. Section 23711.4 is added to the Revenue and Taxation
14 Code, to read:

15 23711.4. For taxable years beginning on or after January 1,
16 2016, ~~and before January 1, 2021,~~ Section 529A of the Internal
17 Revenue Code, relating to qualified ABLE programs, added by
18 Section 102 of Division B of Public Law 113-295, shall apply,
19 except as otherwise provided.

20 (a) Section 529A of the internal Revenue Code is modified as
21 follows:

22 (1) By substituting the phrase “under Part 10 (commencing with
23 Section 17001) and this part” in lieu of the phrase “under this
24 subtitle.”

25 (2) By substituting “Article 2 (commencing with Section
26 23731)” in lieu of “Section 511.”

27 (b) A copy of the report required to be filed with the Secretary
28 of the Treasury under Section 529A(d) of the Internal revenue
29 Code, relating to reports shall be filed with the Franchise Tax
30 Board at the same time and in the same manner as specified in that
31 section.

32 ~~(e) This section shall remain in effect only until December 1,~~
33 ~~2021, and as of that date is repealed.~~

34 SEC. 5. Chapter 15 (commencing with Section 4875) is added
35 to Division 4.5 of the Welfare and Institutions Code, to read:

36
37 CHAPTER 15. QUALIFIED ABLE PROGRAM

38
39 4875. For purposes of this chapter:

1 (a) “ABLE account” or “account” means the account an eligible
2 individual makes contributions to pursuant to this chapter for the
3 purpose of meeting the qualified disability expenses of the
4 designated beneficiary of the account.

5 (b) “ABLE Fund” or “fund” means the fund established by this
6 chapter for purposes of implementing the federal ABLE Act.

7 (c) “Designated beneficiary” means the eligible individual who
8 established an ABLE account and is the owner of the account.

9 (d) “Eligible individual” means an individual who is eligible
10 under the program for a taxable year if during that taxable year
11 both of the following criteria are met:

12 (1) The individual is entitled to benefits based on blindness or
13 disability under Title II or XVI of the federal Social Security Act,
14 and that blindness or disability occurred before the date on which
15 the individual attained 26 years of age.

16 (2) A disability certification, as defined in the federal ABLE
17 Act, with respect to the individual is filed pursuant to the
18 requirements set forth in the federal ABLE Act.

19 (e) “Federal ABLE Act” means the federal Stephen Beck Jr.,
20 Achieving a Better Life Experience Act of 2014.

21 (f) “Qualified ABLE Program” or “program” means the program
22 established by this chapter to implement the federal ABLE act
23 pursuant to Section 529A of the Internal Revenue Code.

24 (g) “Qualified disability expenses” means any expenses related
25 to the eligible individual’s blindness or disability that are made
26 for the benefit of an eligible individual who is the designated
27 beneficiary, including expenses related to education, housing,
28 transportation, employment training and support, assistive
29 technology and personal support services, health, prevention and
30 wellness, financial management and administrative services, legal
31 fees, expenses for oversight and monitoring, funeral and burial
32 expenses, and other expenses, which are approved by the Secretary
33 of the Treasury under regulations and consistent with the purposes
34 of the federal ABLE Act.

35 4876. *There is hereby created the ABLE Act Board that consists*
36 *of the Treasurer, the Director of Finance, the State Controller,*
37 *the Director of Developmental Services, the chairperson of the*
38 *State Council on Developmental Disabilities, or their designees.*

1 ~~4876.~~

2 4877. (a) There is hereby established in state government a
3 Qualified ABLE Program and the ~~Qualified~~ ABLE Fund for
4 purposes of implementing the federal ABLE Act pursuant to
5 Section 529A of the Internal Revenue Code.

6 (b) The Qualified ABLE Program shall be administered by the
7 Treasurer, who shall be responsible for ensuring that the program
8 is administered in compliance with the requirements of the federal
9 ABLE Act.

10 (c) *(1) The ABLE Fund shall accept moneys from all ABLE*
11 *accounts.*

12 *(2) The Able Act Board shall segregate moneys received by the*
13 *ABLE Fund into two accounts, which shall be identified as the*
14 *program account and the administrative account.*

15 (A) *Notwithstanding Section 13340 of the Government Code,*
16 *the program account is hereby continuously appropriated, without*
17 *regard to fiscal years, to the ABLE Act Board for the purposes*
18 *specified in this act.*

19 (B) *Notwithstanding Section 13340 of the Government Code,*
20 *the administrative account is hereby continuously appropriated,*
21 *without regard to fiscal years, to the ABLE Act Board for*
22 *administration of the act. Administrative costs shall not exceed 1*
23 *percent of the incoming funds for the fiscal year.*

24 (d) *Funding for startup and first-year administrative costs shall*
25 *be appropriated from the General Fund in the annual Budget Act.*
26 *The board shall repay, within five years, the amount appropriated,*
27 *plus interest calculated at the rate earned by the Pooled Money*
28 *Investment Account. Necessary administrative costs in future years*
29 *shall be paid out of the administrative fund pursuant to*
30 *subparagraph (B) of paragraph (2) of subdivision (c).*

31 ~~4877.~~

32 4878. Under the program, a person may make contributions
33 for a taxable year, for the benefit of an individual who is an eligible
34 individual for that taxable year, to an ABLE account that is
35 established for the purpose of meeting the qualified disability
36 expenses of the designated beneficiary of the account, if both of
37 the following criteria are met:

38 (a) The designated beneficiary is limited to one ABLE account
39 for purposes of this chapter.

(b) The ABLE account is established only for a designated beneficiary who is a resident of this state.

~~4878.~~

4879. Notwithstanding any other law, moneys in, contributions to, and any distribution for qualified disability expenses from, an ABLE account, not to exceed one hundred thousand dollars (\$100,000), shall not count toward determining eligibility for a state or local means-tested program.

~~4879.~~

4880. (a) The Treasurer may adopt regulations to implement this chapter.

(b) The Treasurer shall adopt regulations to track all ABLE accounts in California.

~~4880. This chapter shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2022, deletes or extends that date.~~